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Attorney for Plaintiffs, DAVID J. LEE and
DANIEL R. LLOYD

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

DAVID J. LEE and DANIEL R. LLOYD,
as individuals and, on behalf of others
similarly situated,

Plaintiffs,

vs.

CHASE MANHATTAN BANK U.S.A.,
N.A., a Delaware corporation, CHASE
MANHATTAN BANK U.S.A., N.A. d.b.a.
CHASE BANK U.S.A., N.A., JPMORGAN
CHASE & CO., a Delaware corporation;
and DOES 1, through 100, inclusive,

Defendants.

Case No.: C 07-4732 MJJ

[PROPOSED] ORDER RE:
DEFENDANTS' MOTION TO
DISMISS

DATE: December 4, 2007
TIME: 9:30 a.m.
PLACE Courtroom 11
19th Floor
450 Golden Gate Avenue
San Francisco, Calif. 94102

1 The motion of Defendants, Chase Manhattan Bank U.S.A., N.A., Chase Manhattan Bank
2 U.S.A., N.A., D.B.A. Chase Bank U.S.A., N.A., and JPMORGAN Chase & Co., came on for
3 hearing before this Court Tuesday, December 4, 2007. Matthew Hale, Esq. appeared on behalf of
4 Plaintiffs David J. Lee, and Daniel R. Lloyd. Stephen J. Newman appeared on behalf of the
5 Defendants.
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7 After considering the written submissions and the arguments of counsel, and all other
8 matters presented to the Court, IT IS HEREBY ORDERED that the Defendants' Motion is
9 DENIED. The Court rules as follows:
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- 11 1. Plaintiffs have standing to maintain the action and its various causes of action;
- 12 2. Plaintiffs' claims concerning their charge, credit, gift, and dining cards fall within
13 the coverage of the California Legal Remedies Act ("CLRA")(California Civil
14 Code § 1750 et seq.);
- 15 3. The Complaint meets the specificity requirements of Fed.R.Civ.P. 9(b);
- 16 4. No cause of action is barred by the relevant statute of limitations;
- 17 5. Plaintiff's Complaint is not preempted by the National Bank Act (12 U.S.C. § 24
18 et seq.);
- 19 6. Plaintiffs' Complaint is not preempted by either 12 C.F.R. § 7.4008 (d)(2)(iv)
20 or 12 C.F.R. § 7.4008(d)(2)(viii);
- 21 7. The California Legal Remedies Act ("CLRA"), (California Civil Code § 1750 et
22 seq.), the California Unfair Competition Law ("UCL")(Bus. & Prof. Code §
23 17200 et seq.) and common law in the context of Plaintiffs' Complaint have, at
24 most, only an incidental effect on Defendants' credit operation;
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1 8. Defendant JPMorgan Chase & Company is not a National Bank and thus the
2 claims against it may not be preempted under the National Bank Act (12 U.S.C. §
3 24 et seq.) or its implementing regulations.
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5 DATED: December __, 2007
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8 By: _____
9 Honorable Martin J. Jenkins
10 U.S. District Court Judge
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